UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,870	08/25/2000	Hiroyuki Hara	B588-011	6789

26272 7590 06/23/2005		EXAMINER	
COWAN LIEBOWITZ & LATMAN P.C.		ELISCA, PIERRE E	
JOHN J TORRENTE			
1133 AVE OF THE AMERICAS		ART UNIT	PAPER NUMBER
1133 AVE OF THE AMERICAS		3621	
NEW YORK, NY 10036			

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/648,870	HARA, HIROYUKI
	Examiner	Art Unit	
	Pierre E. Elisca	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>11 April 2005</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-14</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-14</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
   application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

1.   This office action is in response to Applicant's amendment, filed on 04/11/2005.

2.   Claims 1-14 are pending.

Claim Rejections - 35 USC ə 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
>
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
>
> the prior art are such that the subject matter as a whole would have been obvious at the time the
>
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
>
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-14 are rejected under 35 U.S.C. 103 (a) as being unpatentable over

Sato et al. (U.S. Pat. No. 6,108,638) and Mochizuki (U.S. Pat. No. 6,463,539) in view of

Francisco et al (U.S. Pat. No. 6,078,899).

As per claims 1 and 2 Sato substantially discloses a data processing

system/method which comprises a plurality of input units for registering selected

products, and a processing unit connected to the plurality of input units for calculating a

total price for the selected products (which is readable as Applicant's claimed invention

wherein it is stated that a charge calculation), comprising:

first calculation means for calculating a charge for <u>performing a predetermined process</u>

<u>by</u> using application software, which is used to create and/or edit data by a user

operation (see., abstract, col 4, lines 24-67, col 6, lines 6-55, fig 6, specifically wherein said calculating the total price in the operating means by reading all the PLU data of the products (products or application software. It is to be noted that Sato fails to explicitly disclose a second calculation means for calculating a device charge for using a data input/output device (data input/output or computer or calculating a charge for using a computer or device). However, Mochizuki discloses a IC card (IC card or device or computer or processor) that includes a utilization information, and a number of judging points at where reproduction of the information is judged, and a charging information calculated from a degree of software utilization, please note that the software utilization is stored in the IC card. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the data processing of Sato by including the limitations detailed above as taught by Mochizuki because this would interrupt information that is not charged to the user.

Sato and Mochizuki fail to explicitly disclose a third calculation means for calculating an output **(output or total or sum)** charge of a data output process based on the respective charges calculated by said first and second calculation means. Francisco discloses a register 8 that forwards the amount of sales tax collected by a retailer to computer 13. Register 8 may either forward such sales tax data to computer 13 at the end of or during each transaction, or alternatively it may sum sales tax collected and base transaction amounts (base transaction amounts or first calculation and second calculation) collected and store them in memory 15 and then periodically output the summed totals (summed totals or third calculation) to computer 13 in accordance with

its programmed instructions (see., Francisco, col 5, lines 62-67, col 6, lines 1-9). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the teachings of Sato and Mochizuki by including the limitations detailed above as taught by Francisco because this would prevent retailers or users from avoiding the payment of sales tax or fee.

As per claim 3, Sato discloses the claimed limitations, wherein said the external device comprises at least one of a printer, scanner, copying machine, server, facsimile apparatus, and external storage device (see., fig 6).

As per claims 4, 5 and 6 Sato substantially discloses a data processing system/method which comprises a plurality of input units for registering selected products, and a processing unit connected to the plurality of input units for calculating a total price for the selected products (which is readable as Applicant=s claimed invention wherein it is stated that a charge calculation apparatus), comprising:
first calculation means for calculating a <u>device</u> charge for using a device for inputting or outputting data, <u>wherein the device is used by a user via a network</u> (see., abstract, col 4, lines 24-67, col 6, lines 6-55, fig 6, specifically wherein said calculating the total price in the operating means by reading all the PLU data of the products (products or application software). It is to be noted that Sato fails to explicitly disclose a second calculation means for calculating a software charge for using application software to use the device (data input/output or computer or calculating a charge for using a computer

or device). However, Mochizuki discloses a IC card (IC card or device or computer or processor) that includes a utilization information , and a number of judging points at where reproduction of the information is judged, and a charging information calculated from a degree of software utilization, please note that the software utilization is stored in the IC card. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the data processing of Sato by including the limitations detailed above as taught by Mochizuki because this would interrupt information that is not charged to the user.

As per claims 7, 8 and 10-12 Sato substantially discloses a data processing system/method which comprises a plurality of input units for registering selected products, and a processing unit connected to the plurality of input units for calculating a total price for the selected products (which is readable as Applicant's claimed invention wherein it is stated that a charge calculation apparatus), comprising:

first calculation step of calculating a software charge for <u>performing a predetermined process</u> by using application software, which is used to create and/or edit data by a user operation (see., abstract, col 4, lines 24-67, col 6, lines 6-55, fig 6, specifically wherein said calculating the total price in the operating means by reading all the PLU data of the products (products or application software). It is to be noted that Sato fails to explicitly disclose a second calculation step of calculating a <u>device</u> charge for using the external device (data input/output or computer or calculating a charge for using a computer or device), which receives and outputs <u>via a network</u>. However, Mochizuki discloses a IC

card (IC card or device or computer or processor) that includes a utilization information, and a number of judging points at where reproduction of the information is judged, and a charging information calculated from a degree of software utilization, please note that the software utilization is stored in the IC card. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the data processing of Sato by including the limitations detailed above as taught by Mochizuki because this would interrupt information that is not charged to the user.

Sato and Mochizuki fail to explicitly disclose a third calculation means for calculating an output charge based on the calculated charges by said first and second calculation means. Francisco discloses a register 8 that forwards the amount of sales tax collected by a retailer to computer 13. Register 8 may either forward such sales tax data to computer 13 at the end of or during each transaction, or alternatively it may sum sales tax collected and base transaction amounts (base transaction amounts or first calculation and second calculation) collected and store them in memory 15 and then periodically output the summed totals (summed totals or third calculation) to computer 13 in accordance with its programmed instructions (see., Francisco, col 5, lines 62-67, col 6, lines 1-9). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the teachings of Sato and Mochizuki by including the limitations detailed above as taught by Francisco because this would prevent retailers or users from avoiding the payment of sales tax or fee.

As per claim 9, Sato discloses the claimed limitations, wherein said the external device comprises at least one of a printer, scanner, copying machine, server, facsimile apparatus, and external storage device (see., fig 6).

As per claims 13 and 14, Sato substantially discloses a data processing system/method which comprises a plurality of input units for registering selected products, and a processing unit connected to the plurality of input units for calculating a total price for the selected products(which is readable as Applicant's claimed invention wherein it is stated that a charge calculation apparatus), comprising:

a code of a first calculation step of calculating a software charge for performing a predetermined process (see., abstract, col 4, lines 24-67, col 6, lines 6-55, fig 6, specifically wherein said calculating the total price in the operating means by reading all the PLU data of the products (products or application software **or software**). It is to be noted that Sato fails to explicitly disclose a code of a second data calculation step of calculating a device charge for using a data input/output device (data input/output or computer or calculating a charge for using a computer or device). However, Mochizuki discloses a IC card (IC card or device or computer or processor) that includes a utilization information , and a number of judging points at where reproduction of the information is judged, and a charging information calculated from a degree of software utilization, please note that the software utilization is stored in the IC card. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the data processing of Sato by including the limitations detailed

above as taught by Mochizuki because this would interrupt information that is not charged to the user.

Sato and Mochizuki fail to explicitly disclose a code of a third calculation step of calculating an output charge based on the calculated charges by said first and second calculation step. Francisco discloses a register 8 that forwards the amount of sales tax collected by a retailer to computer 13. Register 8 may either forward such sales tax data to computer 13 at the end of or during each transaction, or alternatively it may sum sales tax collected and base transaction amounts (base transaction amounts or first calculation and second calculation) collected and store them in memory 15 and then periodically output the summed totals (summed totals or third calculation) to computer 13 in accordance with its programmed instructions (see., Francisco, col 5, lines 62-67, col 6, lines 1-9). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the teachings of Sato and Mochizuki by including the limitations detailed above as taught by Francisco because this would prevent retailers or users from avoiding the payment of sales tax or fee.

RESPONSE TO ARGUMENTS

5.   Applicant's arguments filed on 01/11/2005 have been fully considered but they are not persuasive.

REMARKS

6. In response to Applicant's arguments, Applicant argues the prior art of record fail to disclose the recited feature:

a. "an output device which receives and outputs via network". However, the Examiner respectfully disagrees with this assertion since Mochizuki discloses in col 1, lines 57-67, col 2, lines 1-51, specifically wherein said a content of information and the information for limiting a utilization of the content of information and the like are required to be exchanged through a communication network.

b. "calculating a software charge for performing a predetermined process by using application. As noted above, it is believed that Sato discloses this limitation in the abstract, col 4, lines 24-67, col 6, lines 6-55, fig 6, specifically wherein said calculating the total price in the operating means by reading all the PLU data of the products (products or application software **or software**).

c. " the references do not disclose or suggest a third calculation for calculating a total charge. As indicated above, Sato and Mochizuki fail to explicitly disclose a third calculation means for calculating an output **(output or total or sum)** charge of a data output process based on the respective charges calculated by said first and second calculation means. Francisco discloses a register 8 that forwards the amount of sales tax collected by a retailer to computer 13. Register 8 may either forward such sales tax data to computer 13 at the end of or during each transaction, or alternatively it may sum sales tax collected and base transaction amounts (base transaction amounts or first calculation and second calculation) collected and store them in memory 15 and then periodically output the summed totals **(summed totals or third calculation)** to

computer 13 in accordance with its programmed instructions (see., Francisco, col 5, lines 62-67, col 6, lines 1-9). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the teachings of Sato and Mochizuki by including the limitations detailed above as taught by Francisco because this would prevent retailers or users from avoiding the payment of sales tax or fee.

Conclusion

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 703 305-3987. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703 305-9769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pierre Eddy Elisca

Primary Patent Examiner

June 06, 2005